

# Town of Hayden

## Non-Residential Marijuana Cultivation Conditional Use Permit

In addition to the required Marijuana license required through the Town Clerk's office, a Conditional Use Permit for Non-Residential Marijuana Cultivation is required to be processed, reviewed and issued through a public hearing process with the Planning Commission and the Town Council. Non-Residential Marijuana Cultivation is only permitted by a Conditional Use permit in the I-1 Light Industrial Zone and the I-2 Industrial Zone Districts.

The following information is needed to have a complete application for a Non-Residential Marijuana Cultivation Conditional Use Permit:

1. Land use application form (attached)
2. Title commitment
3. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria (16.030.070.C attached) and Non-Residential Marijuana Cultivation review criteria (14.080 and 14.090 attached) have been satisfied.
  - a. Include hours of operation
  - b. Identify how waste will be handled
  - c. Provide a security plan
  - d. Indicate how you will be controlling odors
  - e. Identify your expected electrical use
  - f. Identify the expected water and sewer use
4. A map showing the proposed development of the site, including topography, building locations, parking traffic circulation, usable open space, landscaped area and utilities and drainage features.
5. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
  - a. Include floor plans.
6. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.
  - a. Provide a lighting plan for the exterior of the site which includes cut sheets of the lights and level of illumination.
  - b. Identify if any signage is proposed.

# Town of Hayden

7. Surrounding and interested property ownership report – Provide the Town with a current set of mailing labels (not more than 30 days old) of the names and addresses of the surrounding property owners (within 150 feet of the property), mineral interest owners and mineral and oil and gas lessees of record for the property, and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

8. Application fee

9. Agreement to Pay Development Review fees (form attached)



# LAND USE APPLICATION FORM

## Staff Use Only

Application Number: \_\_\_\_\_

Received By: \_\_\_\_\_

Date: \_\_\_\_\_

Fees Paid: \_\_\_\_\_

Deposit Paid: \_\_\_\_\_

**1. Application is made for:** *(please circle one of the following)*

Administrative Plat  
Historic Designation  
Petition  
Zoning  
Site Plan

Annexation  
Historic Renovation  
Planned Development  
Right of Way Construction  
Variance or Appeal

Conditional Use  
Major Subdivision **1 2 3**  
Minor Subdivision  
Sign Permit  
Waiver

Other: \_\_\_\_\_

**2. Project Name:** \_\_\_\_\_  
please print or type legibly

**3. Contact information:** *(a list of additional contacts may be attached)*

Owner Name: _____	Applicant Name: _____
Address: _____	Address: _____
Telephone: _____ Fax: _____	Telephone: _____ Fax: _____
E-mail: _____	E-mail: _____

**4. Property Description:**

Address or Location: \_\_\_\_\_  
Existing Zoning: \_\_\_\_\_ Existing Use: \_\_\_\_\_  
Proposed Zoning: \_\_\_\_\_ Proposed Use: \_\_\_\_\_

**5. Purpose:** *(describe intent of this application in 1-2 sentences)*

\_\_\_\_\_  
\_\_\_\_\_

**6. Certification:** *(must be signed in blue ink)*

*I certify that I am the lawful owner of the parcel(s) of land affected by this application and hereby consent to this action.*

Owner: \_\_\_\_\_ Date: \_\_\_\_\_ **AND**

*I certify that the information and attachments I have submitted are true and correct to the best of my knowledge. In filing this application, I am acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the Town of Hayden must be submitted prior to having this application processed.*

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

# Town of Hayden

## Conditional Use Review Criteria (16.03.070.C)

**Please provide a narrative describing how your request will meet the following criteria:**

1. The conditional use will satisfy all applicable provisions of the zoning code and subdivision regulations unless a variance is being requested.
2. The conditional use will conform with or further the goals, policies and strategies set forth in the Town of Hayden Comprehensive Plan.
3. The conditional use will be adequately served with public utilities, services, and facilities (i.e. water sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, et.) and not impose an undue burden above and beyond those of the permitted uses of the district.
4. The conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
5. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
6. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
  - a. Traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation, dust; and erosion control.
7. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

# Town of Hayden

## MARIJUANA RELATED CRITERIA

**Section 14.080** identifies Non-Residential Cultivation Restrictions and identifies what is and is not permitted in the Town of Hayden for this use:

A. It shall be unlawful to possess or cultivate more than 12 marijuana plants on any premises or within any structure in any zone district in the Town without an approved Conditional Use Permit and without the license required for such a cultivation facility under Chapter 5.22 of this Code.

B. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises to allow more than 12 marijuana plants to be possessed or cultivated on the premises without approval of a Conditional Use Permit and without the license required for such a cultivation facility under Chapter 5.22 of this Code.

C. It shall be unlawful to cultivate marijuana outside of a completely enclosed locked structure.

1. Nothing in this section shall be construed to allow the cultivation of marijuana in any number, manner, or location that is in conflict with the cultivation restrictions imposed in this Article within single family and multi-family residential dwelling units.

D. The marijuana plants must be cultivated, produced, processed and possessed within the building approved as part of a Conditional Use Permit process.

E. The cultivation, production, processing and possession of marijuana plants must not be conducted in an open and public manner meaning it must not be perceptible from the exterior of the building on the subject site, and such activity shall not cause or create any of the following:

1. Regularly occurring or persistent unusual odors, smells, fragrances, or other olfactory stimulus detectable by any person with a normal sense of smell upon or within any adjacent unit or property;

2. Light pollution, glare, or brightness that unreasonably disturbs others in the use or enjoyment of their property, or constitutes a nuisance; or

3. Excessive noise.

F. All marijuana cultivation facilities must employ and maintain ventilation and odor control that is adequate for the size of the facility to effectively eliminate odor from the facility escaping the facility so as to be detected by a person with a normal sense of smell at the exterior of the premises, in the surrounding neighborhood or in adjacent units.

G. Marijuana plants shall not be cultivated, produced, processed or possessed in any accessory structure.

H. The cultivation, production, processing or possession of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes.

# Town of Hayden

I. The use of any compressed flammable gas as a solvent in the extraction of tetrahydrocannabinols or other cannabinoids is prohibited.

J. The total load for a single branch circuit shall not exceed the ampacity for the entire cultivation area within the building.

K. Marijuana waste shall be rendered unusable prior to leaving the facility by grinding and incorporating the material with non-consumable solid wastes such as food waste, soil or other compostable materials.

L. Cultivation facilities shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary; any public park; or any commercial child care center. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school, park or commercial child care center to the building in which the medical marijuana center is located.

M. Retail marijuana cultivation uses shall not operate in a manner that adversely affects the public health, safety, and welfare of the immediate neighborhood in which the retail marijuana cultivation use is located.

**Section 14.090**, Control of Emissions, discusses requirements for these uses and states:

In accordance with Town of Hayden Code Title 8. Health and Safety Section 8.08 Nuisances, sufficient measures and means of preventing smoke, odors, debris, dust, fluids, and other substances from exiting a cultivation facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a cultivation facility, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state, and local laws and regulations.

All cultivation facilities must employ and maintain ventilation and odor control that is adequate for the size of the facility to effectively eliminate the pungent odor from the operation so that the odor does not migrate in and around the marijuana cultivation site and is not detected by a person with a normal sense of smell at the exterior of the premises, in the surrounding neighborhood and/or in adjacent units.

**TOWN OF HAYDEN**  
**AGREEMENT FOR PAYMENT OF**  
**DEVELOPMENT REVIEW EXPENSES INCURRED BY THE TOWN**

**Regarding Project:**

THIS AGREEMENT ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2014, by and between the TOWN OF HAYDEN, COLORADO, a municipal corporation, hereinafter referred to as "the Town", and \_\_\_\_\_, a \_\_\_\_\_ Corporation hereinafter referred to as "the Owner",

**WITNESSETH**

**WHEREAS**, the Owner owns certain Property situated in the County of Routt, State of Colorado, and legally described as follows, to wit:

See **Exhibit A** — Legal Description attached hereto

**WHEREAS**, the Town's review process includes review of the Owner's proposed plans for the Property which identify land use, the location of parks, schools and open space dedications, general location of streets, and a review of utility service issues including the installation of public improvements, dedication of utility easements, confirmation of the availability of utility services and the method for developing and paying for such utility services; and

**WHEREAS**, the Owner desires to annex, plat and/or develop all or a portion of said Property and has made application to the Town of Hayden, and

**WHEREAS**, the Parties hereto recognize that the fees as specified by the Municipal Code of the Town of Hayden are not adequate to fully cover the Town's expenses in considering the application, which include, but are not limited to, legal publications, engineering fees, attorney fees, land planner, other consultant fees, reproduction of materials, public hearing expenses and recording of documents; and

**WHEREAS**, the Parties recognize that the Town will incur expenses prior to the Owner's formal submittal of an annexation, platting or development review proposal; and

**WHEREAS**, the Parties hereto recognize that the Town will continue to incur expenses throughout the entire annexation and review process until either (i) abandonment of the work by either the Town or the Owner or (ii) completion of the process.

**NOW, THEREFORE**, for and in consideration of the foregoing premises and of the mutual promises and conditions hereinafter contained, it is hereby agreed as follows:

1. Full and separate accounting of annexation, platting and development review expenses. The Town will maintain separate accounts of all funds expended and fees and expenses incurred by the Town as a result of the development review of the above referenced project. Monthly statements of expenses incurred will be made available to the Owner by the Town. Expenses to be charged to the Owner's account shall include, but shall not be limited to, those fees and expenses attributable to legal publications,

engineering services, attorney fees, planner/consultant fees, reproduction of materials, public hearing expenses, the securing of permits and easements and the recording of documents.

2. Owner payment of expenses — town estimate of fees. The Owner acknowledges that the Town does not employ staff to review annexation or development review proposals. All annexation and development review proposals are reviewed by third party consultants engaged by the Town. An estimate of the Town's anticipated third party planner, civil engineer, attorney, and water engineer professional fees to be incurred as part of the review and approval of the above referenced project is \$.

(a) Initial owner deposit. Upon the execution of this Agreement, the Owner agrees to deposit with the Town the sum of \$ which sum shall serve as an initial deposit and partial payment of third party professional costs incurred by the Town while processing the Owner's proposal.

As the Town receives third party billings from its professionals, it will forward photocopies of the same to the Owner for immediate payment to the Town of the amount shown on each professional service invoice approved for payment by the Town. In the event the Owner fails to pay the invoice as submitted by the Town within ten (10) days of the Town's delivery of an invoice, the Town shall be entitled to take the following action: (i) suspend all further review; (ii) cancel any public hearings scheduled by the Town with respect to the review process; and (iii) apply the funds on deposit to retire the balance due any third party professional engaged by the Town.

(b) Payment of balance due at termination. In the event the Town's review expenses are greater than the funds held by the Town at the time of its suspension of review, the Owner agrees to reimburse to the Town, upon demand, such funds as are necessary to retire the balance due third party professionals at the time of the Town's termination of the review.

(c) Obligation to pay fees in excess of estimate. The Owner understands that estimates by third party professionals are subject to factors outside the control of those professionals. Factors including the quality of materials submitted by applicants, input from other review agencies, unforeseen problems or issues, and decisions by the Town of Hayden Planning Commission and Town Board may affect charges by those professionals. The Owner agrees to pay fees in excess of the Estimate for third party professionals.

3. Application termination. Except where the law or an agreement with the Town provides otherwise, the Owner may terminate its application at any time by giving written notice to the Town. The Town shall take all reasonable steps necessary to terminate the accrual of costs to the Owner and file such notices as are required under the Town's annexation and development review regulations. The Owner will be liable for all costs incurred and those costs reasonably incurred by the Town to terminate the application.

4. Collection of fees and costs. If the Owner fails to pay the fees required herein when due, the Town may take those steps necessary and authorized by law to collect the fees due. The Town shall also be entitled to all court costs and attorney fees incurred in



collection of the balance due, including interest on the amount due from its due date at the rate of 18% per annum.

**IN WITNESS WHEREOF**, the Town and the Owner have caused this Agreement to be duly executed on the day and year first above written.

**OWNER:**

A \_\_\_\_\_ Corporation

By: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Sharon Johnson, Town Clerk

**TOWN OF HAYDEN:**

By: \_\_\_\_\_  
Jim Haskins, Mayor

**EXHIBIT A**  
**LEGAL DESCRIPTION**